

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SOIL FRIENDS, LLC, a Michigan
Limited liability company, BENJAMIN
MARTIN, an individual, and SARAH
MARTIN, an individual,

Case No. 1:23-cv-1267

Plaintiffs,

v.

COMSTOCK CHARTER TOWNSHIP,
A Michigan municipal corporation, KALAMAZOO
AREA BUILDING AUTHORITY, a Michigan
Municipal corporation or agent of Comstock
Township, JODI STEFFORIA, RANDY
THOMPSON, SCOTT HESS, MATTHEW
MILLER, JENNIFER JONES-NEWTON, RON
SPORTEL, ALLAN FAUST, JEFF AMPEY,
LARRY NICHOLS, PATRICK HANNA, CLYDE
SHERWOOD, III, ROXANNE SEEGER,
CATHERINE KAUFMAN, and MIKE ALWINE individuals,

Defendants.

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**TOWNSHIP DEFENDANTS AND KABA DEFENDANTS' PARTIAL
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT
UNDER FED. R. CIV. P. 12(b)(6)**

Township Defendants, COMSTOCK CHARTER TOWNSHIP, JODI STEFFORIA, RANDY THOMPSON, SCOTT HESS, MATTHEW MILLER, JENNIFER JONES-NEWTON, RON SPORTEL, ALLAN FAUST, JEFF AMPEY, LARRY NICHOLS, PATRICK HANNA, and CLYDE SHERWOOD, III (collectively, "Township Defendants"), as well as KABA Defendants, KALAMAZOO AREA BUILDING AUTHORITY and MIKE ALWINE (collectively, "KABA Defendants"), hereby respectfully move this Honorable Court, under Fed. R. Civ. P. 12(b)(6), to dismiss several claims in Plaintiffs' First Amended Complaint because Plaintiffs failed to state a claim upon which relief can be granted as further detailed in the accompanying Brief in Support which is incorporated herein by reference.

Pursuant to W.D. Mich. LCivR 7.1(d), counsel for the Township Defendants and KABA Defendants contacted Plaintiffs' counsel to seek concurrence with the instant motion and relief sought. On January 12, 2024, counsel for Township Defendants and KABA Defendants sent a letter to Plaintiffs seeking concurrence in dismissal of certain claims within the initial Complaint and this resulted in Plaintiff's agreement to file the subject Amended Complaint. (**Exhibits A and Exhibit B**). After determining that the deficiencies in the initial Complaint were within the Amended Complaint, the defendants determined that dismissal of certain claims within the Amended Complaint was appropriate; counsel for the Township Defendants and KABA Defendants sent another letter to Plaintiffs on February 20, 2024, seeking concurrence in dismissal of several claims. (**Exhibit C**). Plaintiff's counsel did not concur.

WHEREFORE, Township Defendants and KABA Defendants respectfully request that this Honorable Court dismiss certain counts from Plaintiffs' First Amended Complaint, with prejudice, and such other relief as the Court deems proper.

Dated: March 1, 2024

Respectfully submitted,

STRAUB, SEAMAN & ALLEN, P.C.

/s/ James T. McGovern

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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2023, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: **None**

/s/ Denise A. Van Hoven

Denise A. Van Hoven

Legal Assistant to James T. McGovern